



**PROPOSED RULE MAKING  
(RCW 34.05.320)**

**CR-102 (7/22/01)**  
**Do NOT use for expedited  
rule making**

Agency: Department of Labor and Industries

- ☒ Preproposal Statement of Inquiry was filed as WSR 03-04-097; or  
☐ Expedited Rule Making -- Proposed notice was filed as WSR \_\_\_\_\_; or  
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice  
☐ Supplemental Notice  
to WSR \_\_\_\_\_  
☐ Continuance of WSR \_\_\_\_\_

(a) Title of rule: Chapter 296-816 WAC, Protecting Trade Secrets; Chapter 296-62 WAC, General Occupational Health Standards

Purpose: The department is rewriting and clarifying requirements relating to Trade Secrets. The preproposal for Trade Secrets was filed with Access to Records on February 4, 2003 as WSR 03-04-097. However, L & I decided to file Access to Records and Trade Secrets as two separate proposed rules. As a result, Access to Records was filed as a proposed rule on November 18, 2003 as WSR 03-23-101. This will make the trade secret requirements easy to read and understand, making them more useful for employers. This proposal will move trade secret requirements from chapter 296-62 WAC, General Occupational Health Standards, to a new chapter, chapter 296-816 WAC, Protecting Trade Secrets. See Attachment (a).

Other identifying information: None.

(b) Statutory authority for adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060

Statute being implemented: Chapter 49.17 RCW

(c) Summary: The department is rewriting and clarifying requirements relating to trade secrets. This will make the trade secret requirements easy to read and understand, making them more useful for employers. This proposal will move trade secret requirements from chapter 296-62 WAC, General Occupational Health Standards, to a new chapter, chapter 296-816 WAC, Protecting Trade Secrets. See Attachment (a).

Reasons supporting proposal: See Attachment (a).

(d) Name of Agency Personnel Responsible for:	Office Location	Telephone
1. Drafting..... Tracy Spencer	Tumwater	360-902-5530
2. Implementation.... Michael A. Silverstein	Tumwater	360-902-5495
3. Enforcement..... Michael A. Silverstein	Tumwater	360-902-5495

(e) Name of proponent (person or organization): Department of Labor and Industries

- ☐ Private  
☐ Public  
☒ Governmental

(f) Agency comments or recommendations, if any, as to statutory language, implementation, enforcement and fiscal matters:  
None.

(g) Is rule necessary because of:

- |                         |                              |                                        |
|-------------------------|------------------------------|----------------------------------------|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, ATTACH COPY OF TEXT  
Citation:

(h) HEARING LOCATION:

Department of Labor and Industries Building  
Rooms S117 and S118  
7273 Linderson Way S.W.  
Tumwater, Washington

Date: April 29, 2004 Time: 2:30 p.m.

Assistance for persons with disabilities: Contact  
Sally Elliott by April 22, 2004

at (360) 902-5484 or yous235@lni.wa.gov

Submit written comments to:

Kimberly Johnson, Administrative Regulations Analysis  
WISHA Services  
Post Office Box 44620  
Olympia, WA 98504  
FAX (360) 902-5529 By May 6, 2004

DATE OF INTENDED ADOPTION: June 1, 2004

**CODE REVISER USE ONLY**

**WSR 04-07-159**

NAME (TYPE OR PRINT)

**Paul Trause**

SIGNATURE

TITLE

**Director**

DATE

March 23, 2004

(j) Short explanation of rule, its purpose, and anticipated effects:

The Trade Secrets rule, in chapter 296-62 WAC, General Occupational Health Standards, contains requirements for withholding and disclosing trade secrets. These requirements will be rewritten and moved into chapter 296-816 WAC, Protecting Trade Secrets. There are no anticipated effects of this rulemaking.

Does proposal change existing rules? ☐ YES

☒ NO

If yes, describe changes:

(k) Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

☒ No. Explain why no statement was prepared

A number of criteria and exemptions were established by the SBEIS analysis. One key criteria that allows rule changes to be exempt from preparation of an SBEIS is presented in RCW 34.05.310(4)(d): "rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect" are not subject to the SBEIS requirements. Because the proposed rule changes make clarifying and organizational changes for ease of understanding and use, but do not in any way alter the content of the original rules, there should not be an economical impact on Washington State business.

The analysis of the rule reveals that in addition to not imposing new costs on businesses, these revisions will actually make WISHA rules easier for employers and employees to understand and use, and thus actually save them time.

(l) Does RCW 34.05.328 apply to this rule adoption? ☐ Yes

☒ No

Please explain:

Significant rule-making criteria does not apply to the rule amendments because the changes simply clarify the language of the rule without changing its effect.

**CR 102 RULE-MAKING ORDER (RCW 34.05.320)**

Department of Labor and Industries

WISHA Services Division

CR-102 Filing Date: March 23, 2004

Hearing Date: April 29, 2004

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**Attachment (a)**

(Purpose Statement)

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**Protecting Trade Secrets**

**NEW SECTIONS:**

WAC 296-816-100	Scope
WAC 296-816-200	Protecting Trade Secrets
WAC 296-816-20005	Meet certain conditions in order to withhold trade secret information
WAC 296-816-20010	Provide trade secret information in a medical emergency
WAC 296-816-20015	Respond to requests for trade secret information in non-emergency situations
WAC 296-816-20020	Provide trade secret information when requested by WISHA
WAC 296-816-300	Definitions

**AMENDED SECTION:**

- WAC 296-62-05305      Meet certain conditions if you withhold trade secret information.
- A note will be added stating that requirements relating to trade secrets have been moved and the requirements in WAC 296-62-05305 through WAC 296-62-05325 only apply to agriculture